

House Bill 156

By: Representatives Buckner of the 130th, Hugley of the 133rd, Powell of the 29th, Porter of the 143rd, Jamieson of the 28th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 of Title 31 of the Official Code of Georgia Annotated, relating to
2 consent for surgical or medical treatment, so as to provide for a short title; to require that a
3 female give her informed consent prior to an abortion; to require that certain information be
4 provided to or made available to a female prior to an abortion; to require a written
5 acknowledgment of receipt of such information; to define informed consent procedures; to
6 provide for the preparation and availability of certain information; to provide for procedures
7 in a medical emergency; to provide that a physician who complies with this article shall not
8 be civilly liable for failure to obtain informed consent; to make conforming amendments to
9 existing law; to provide for related matters; to provide for an effective date; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Chapter 9 of Title 31 of the Official Code of Georgia Annotated, relating to consent for
14 surgical or medical treatment, is amended by designating the existing text of the chapter as
15 Article 1 and by adding thereafter a new Article 2 to read as follows:

16 "ARTICLE 2

17 31-9-20.

18 This article shall be known and may be cited as the 'Women's Informed Consent Protection
19 Act.'

20 31-9-21.

21 No abortion shall be performed in this state except with the voluntary and informed consent
22 of the female upon whom the abortion is to be performed. A physician or a physician's
23 designated agent shall advise the female that she may provide voluntary and informed

1 consent pursuant to the procedure set forth in either paragraph (1) or (2) of this Code
2 section. Except in the case of a medical emergency, consent to an abortion is voluntary and
3 informed if:

4 (1)(A) The female is informed of the medical risks associated with the procedure by
5 telephone or in person, by the physician or a designated agent of the physician at least
6 24 hours prior to the performance of the abortion;

7 (B) The female is informed, by telephone or in person, by the physician who is to
8 perform the abortion or by a designated agent of the physician at least 24 hours prior
9 to the performance of the abortion that she has the right to review the printed materials
10 described in Code Section 31-9-22 and that these materials include information about
11 services which may be available to her, including medical assistance benefits for
12 prenatal care, childbirth and neonatal services, and fetal development;

13 (C) The female shall be informed that she has the right to review the materials
14 described in Code Section 31-9-22 on a website maintained by the State of Georgia or
15 to receive printed materials by mail or in person prior to the performance of the
16 abortion. She shall be provided with the address of the website where these materials
17 may be reviewed. If the female chooses to view the materials other than on the website,
18 they shall be provided to her by mail or in person prior to the performance of the
19 abortion. The information required by this subparagraph may be provided by a tape
20 recording if provision is made to record or otherwise register specifically if the female
21 chooses to review the printed materials other than on the website;

22 (D) The female certifies in writing prior to the performance of the abortion that the
23 information described in subparagraphs (A) and (B) of this paragraph has been
24 furnished to her and that she has been informed of her opportunity to review the
25 information referred to in subparagraph (C) of this paragraph; and

26 (E) Prior to the performance of the abortion, the physician or the physician's agent
27 receives a copy of the written certification prescribed by subparagraph (D) of this
28 paragraph; or

29 (2) The female provides her informed consent to the abortion procedure in accordance
30 with the provisions of Code Section 31-9-6.1.

31 31-9-22.

32 (a) Within 90 days after this article first becomes effective, the Department of Human
33 Resources shall cause to be published in English and in each language which is the primary
34 language of 2 percent or more of the state's population and shall cause to be available on
35 the state website provided for in subsection (d) of this Code section the following printed
36 materials in such a way as to ensure that the information is easily comprehensible:

(1) Geographically indexed materials designed to inform the female of public and private agencies and services available to assist a female through pregnancy, upon childbirth, and while the child is dependent, including adoption agencies, which shall include a comprehensive list of the agencies available, a description of the services they offer, and a description of the manner, including telephone numbers, in which they might be contacted or, at the option of such department, printed materials including a toll-free, 24 hour a day telephone number which may be called to obtain, orally, such a list and description of agencies in the locality of the caller and of the services they offer; and

(2) Materials designed to inform the female of the probable anatomical and physiological characteristics of the fetus at two-week gestational increments throughout pregnancy. The materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the fetus.

(b) The materials referred to in subsection (a) of this Code section shall be printed in a typeface large enough to be clearly legible. The website provided for in subsection (d) of this Code section shall be maintained at a minimum resolution of 72 pixels per inch.

(c) The materials required under this Code section shall be available at no cost from the Department of Human Resources.

(d) The Department of Human Resources shall develop and maintain an Internet website to provide the information described in this Code section.

31-9-23.

When, in the physician's judgment, a medical emergency compels the performance of an abortion, the physician shall inform the female, prior to the abortion if possible, of the medical indications supporting the physician's judgment that an abortion is necessary.

31-9-24.

Any physician who complies with the provisions of this article shall not be held civilly liable to a patient for failure to obtain informed consent to abortion."

SECTION 2.

Said chapter is further amended by striking Code Section 31-9-5, relating to applicability of the informed consent law to abortion and sterilization procedures, and inserting in its place a new Code section to read as follows:

"31-9-5.

This ~~chapter article~~ shall not apply in any manner whatsoever to ~~abortion and~~ sterilization procedures, which procedures shall ~~continue to~~ be governed by ~~existing~~ law independently of the terms and provisions of this chapter."

SECTION 3.

This Act shall become effective January 1, 2006, and shall apply with respect to abortions performed on or after that date, except that the provisions of this Act relating to publication and distribution of materials by the Department of Human Resources shall become effective on October 1, 2005.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.